

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
ANDERSON/GREENWOOD DIVISION**

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|----------------------------|---|-------------------------------------|
| David Richard Walker, Jr., |) | |
| |) | |
| Plaintiff, |) | Civil Action No.: 8:19-cv-02458-JMC |
| |) | |
| v. |) | |
| |) | ORDER |
| Dr. John B. McCree, |) | |
| |) | |
| Defendant. |) | |
| _____ |) | |

Plaintiff, David Richard Walker Jr., proceeding pro se and *in forma pauperis*, filed this civil action pursuant to 42 U.S.C. § 1983. (ECF No. 29.) Plaintiff contends that Defendant violated his rights under the First, Fifth, Fourteenth, and Eighth Amendments to the United States Constitution, alleging that Defendant deprived Plaintiff of adequate and appropriate health care. (ECF No. 1.) This matter is before the court for review of the Report and Recommendation (“Report”) (ECF No. 32), filed on November 22, 2019, by the United States Magistrate Judge. The Magistrate Judge found that Plaintiff’s Complaint was subject to summary dismissal because he failed to state a claim upon which relief can be granted. (ECF No. 32 at 9.) Specifically, the Magistrate Judge determined that “the Amended Complaint does not indicate any personal involvement by the named Defendant and does not allege facts to meet the supervisory liability exception.” (ECF No. 32 at 9.) The Report recommends that this court dismiss Plaintiff’s action without leave to amend and without issuance and service of process. (ECF No. 32 at 10.)

The Magistrate Judge’s Report is made in accordance with 28 U.S.C. § 630(b) and Local Civil Rule 73.02(B)(2)(d) for the District of South Carolina. The Magistrate Judge makes only a recommendation to this court, which has no presumptive weight. The responsibility to make a final

determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-271 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objections are made. *Diamond v. Colonial Life and Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005). Plaintiff was advised of his right to file objections to the Report. (ECF No. 32 at 11.) Plaintiff did not file any objections to the Report.

In the absence of objections to the Magistrate Judge's Report, this court is not required to provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, "in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must 'only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note). Furthermore, failure to file specific written objections to the Report results in a party's waiver of the right to appeal from the judgment of the District Court based upon such recommendation. 28 U.S.C. § 636(b)(1); *Thomas v. Arn*, 474 U.S. 140 (1985).

After a thorough review of the Report and the record in this case, the court finds the Report provides an accurate summary of the facts and law and does not contain clear error. Therefore, the court **ACCEPTS** the Magistrate Judge's Report and Recommendation (ECF No. 32) and **DISMISSES** Plaintiff's Complaint without leave to amend and without issuance and service of process.

IT IS SO ORDERED.



J. Michelle Childs
United States District Judge

July 6, 2020
Columbia, South Carolina